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ADAMS INTELLECTUAL PROPERTY LAW, P.A.  
Suite 2350 Charlotte Plaza  
201 South College Street  
CHARLOTTE NC 28244

In re Application of :  
Okada et al. :  
Application No.: 10/520,016 :  
PCT No.: PCT/JP03/08306 :  
Int. Filing Date: 30 June 2003 : DECISION  
Priority Date: 01 July 2002 :  
Attorney Docket No.: 3348/2 :  
For: Human IgM Antibody Lysing Activated Lymphocytes :  
Under Mediation By Homologous Complement :

This is in response to the "Petition Under 37 CFR 1.135" filed on 16 March 2009. The petition is being treated under 37 CFR 1.181.

### **BACKGROUND**

This international application was filed on 30 June 2003, claimed an earliest priority date of 01 July 2002, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 08 January 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 01 January 2005. Applicants filed *inter alia* the basic national fee on 29 December 2004.

On 23 January 2006, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants.

On 07 November 2006, a Notification To Comply (Form PCT/DO/EO/922) was mailed to applicants, requiring the submission of an initial computer readable form (CRF) of the sequence listing, an initial paper or compact disc copy of the sequence listing, an amendment specifically directing its entry into the application, and a statement that the contents of the CRF are identical to those of the written sequence listing and (where applicable) contains no new matter. The Notification set a two month period for response, extendable under 37 CFR 1.136(a). Also mailed was a "Withdrawal Of Previously Sent Notice" withdrawing (vacating) the Notice of Acceptance (Form PCT/DO/EO/903) mailed on 23 January 2006.

On 22 February 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Form PCT/DO/EO/922 mailed on 07 November 2006.

On 07 May 2007, applicants filed a response which urged, *inter alia*, that the Notification of Abandonment "was issued in error."

### **DISCUSSION**

Petitioner argues that the Notification of Abandonment "was issued in error" because it "did not factor in" the possibility of extensions under 37 CFR 1.136(a). Review of the record reveals that the period for response to the Form PCT/DO/EO/922 mailed on 07 November 2006 would, if extended five months under 37 CFR 1.136(a), expire as of midnight on 07 June 2007.

Therefore, the Notice of Abandonment (Form PCT/DO/EO/909) mailed on 22 February 2007 was premature, and accordingly it is hereby **VACATED**. The holding of abandonment is hereby **WITHDRAWN**.

**DECISION**

The petition is **GRANTED** as discussed above.

This application is being returned to the Office of Patent Application Processing for continued processing, including correction of the electronic records of the USPTO to show his application as pending, and processing of applicants' response filed on 07 May 2007.

/George Dombroske/  
George Dombroske  
PCT Legal Examiner  
Office of PCT Legal Administration  
Tel: (571) 272-3283  
Fax: (571) 273-0459